



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

400 Seventh Street, S.W.
Washington, D.C. 20590

NOV 15 2005

Mr. H. I. Small
Vice President - Terminal Operations
Amerada Hess Corporation
1 Hess Plaza
Woodbridge, NJ 07095

RE: CPF No. 1-2005-6003

Dear Mr. Small:

Enclosed is the Final Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case. It makes a finding of violation and assesses a civil penalty of \$5,000. The penalty payment terms are set forth in the Final Order. This enforcement action closes automatically upon payment. Your receipt of the Final Order constitutes service of that document under 49 C.F.R. § 190.5.

Sincerely,

James Reynolds
Pipeline Compliance Registry
Office of Pipeline Safety

Enclosure

cc: Mr. Bill Gute Director, Eastern Region, OPS

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

**DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, D.C. 20590**

In the Matter of)	
)	
AMERADA HESS CORPORATION,)	CPF No. 1-2005-6003
)	
Respondent.)	

FINAL ORDER

On June 21 and 23, 2004, pursuant to 49 U.S.C. § 60117, representatives of the Office of Pipeline Safety (OPS), Eastern Region, conducted an inspection of Respondent's Operator Qualification Plan and records at its Bayonne Terminal in New Jersey. As a result of the inspection, the Director, Eastern Region, OPS, issued to Respondent, by letter dated June 28, 2005, a Notice of Probable Violation and Proposed Civil Penalty (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Respondent had violated 49 C.F.R. Part 195 and proposed assessing a civil penalty of \$10,000 for the alleged violation.

Respondent responded to the Notice by letter dated July 29, 2005 (Response). Respondent did not contest the allegation of violation but offered an explanation and requested that the proposed civil penalty be reduced. Respondent did not request a hearing, and therefore has waived its right to one.

FINDINGS OF VIOLATION

(Uncontested)

In its Response, Respondent did not contest the alleged violations in the Notice. Accordingly, I find that Respondent violated the following sections of 49 C.F.R. Part 195, as more fully described in the Notice:

49 C.F.R. § 195.509(a) -- failure to have a written Operator Qualification plan by April 27, 2001.

This finding of violation will be considered a prior offense in any subsequent enforcement action taken against Respondent.

ASSESSMENT OF PENALTY

Under 49 U.S.C. § 60122, Respondent is subject to a civil penalty not to exceed \$100,000 per violation for each day of the violation up to a maximum of \$1,000,000 for any related series of violations. The Notice proposed a \$10,000 civil penalty for violation of 49 C.F.R. § 195.509(a).

49 U.S.C. § 60122 and 49 C.F.R. § 190.225 require that, in determining the amount of the civil penalty, I consider the following criteria: nature, circumstances, and gravity of the violation, degree of Respondent's culpability, history of Respondent's prior offenses, Respondent's ability to pay the penalty, good faith by Respondent in attempting to achieve compliance, the effect on Respondent's ability to continue in business, and such other matters as justice may require.

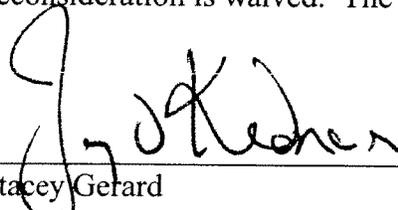
The Notice proposed a civil penalty of \$10,000, as Respondent failed to have a written Operator Qualification (OQ) plan by April 27, 2001. Respondent did not contest the allegation of violation but offered an explanation and requested that the proposed civil penalty be reduced. At the time of the inspection, Respondent did have an OQ plan. Respondent also had plans underway to take the line out of service by August 15, 2005 and maintain it in a caretaker status due to business demands. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$5,000, for violation of 49 C.F.R. §195.509(a).

Payment of the civil penalty must be made within 20 days of service. Payment may be made by sending a certified check or money order (containing the CPF Number for this case) payable to "U.S. Department of Transportation" to the Federal Aviation Administration, Mike Monroney Aeronautical Center, Financial Operations Division (AMZ-120), P.O. Box 25770, Oklahoma City, OK 73125.

Federal regulations (49 C.F.R. § 89.21(b)(3)) also permit this payment to be made by wire transfer, through the Federal Reserve Communications System (Fedwire), to the account of the U.S. Treasury. Detailed instructions are contained in the enclosure. Questions concerning wire transfers should be directed to: Financial Operations Division (AMZ-120), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 25082, Oklahoma City, OK 73125; (405) 954-4719.

Failure to pay the \$5,000 civil penalty will result in accrual of interest at the current annual rate in accordance with 31 U.S.C. § 3717, 31 C.F.R. § 901.9 and 49 C.F.R. § 89.23. Pursuant to those same authorities, a late penalty charge of six percent (6%) per annum will be charged if payment is not made within 110 days of service. Furthermore, failure to pay the civil penalty may result in referral of the matter to the Attorney General for appropriate action in an United States District Court.

Under 49 C.F.R. § 190.215, Respondent has a right to submit a Petition for Reconsideration of this Final Order. The petition must be received within 20 days of Respondent's receipt of this Final Order and must contain a brief statement of the issue(s). The filing of the petition automatically stays the payment of any civil penalty assessed. However if Respondent submits payment for the civil penalty, the Final Order becomes the final administrative decision and the right to petition for reconsideration is waived. The terms and conditions of this Final Order are effective on receipt.



for
Stacey Gerard
Associate Administrator
for Pipeline Safety

NOV 15 2005

Date Issued